

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE: COOK MEDICAL, INC, IVC FILTERS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

Case No. 1:14-ml-2570-RLY-TAB
MDL No. 2570

This Document Relates to Plaintiff
FLORENCE SMITH, on behalf of the decedent WILLIE C. SMITH

Civil Case # 1:22-cv-6911

AMENDED COMPLAINT - SHORT FORM COMPLAINT

COMES NOW the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The Master Complaint in MDL No. 2570 by reference (Document 213). Plaintiff(s) further show the court as follows:

1. Plaintiff/Deceased Party:

Florence Smith, on behalf of the decedent Willie C. Smith

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

4. Plaintiff's/Deceased Party's state of residence at the time of implant:

California

5. Plaintiff's/Deceased Party's state of residence at the time of injury:

California

6. Plaintiff's/Deceased Party's current state of residence:

California

7. District Court and Division in which venue would be proper absent direct filing:

United States District Court for the Central District of California

8. Defendants (Check Defendants against whom Complaint is made):

- ☒ Cook Incorporated
- ☒ Cook Medical LLC
- ☒ William Cook Europe ApS

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: _____

a. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

Paragraph 6-28, Plaintiff also alleges all claims in his original
complaint. Plaintiff also alleges all claims in Dkt.18900

b. Other allegations of jurisdiction and venue:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim

(Check applicable Inferior Vena Cava Filters):

- ☒ Günther Tulip® Vena Cava Filter
- ☐ Cook Celect® Vena Cava Filter
- ☐ Gunther Tulip Mreye
- ☐ Cook Celect Platinum
- ☐ Other:

11. Date of Implantation as to each product:

On or about October 15, 2005

12. Hospital(s) where Plaintiff was implanted (including City and State):

Harbor- UCLA Medical Center, Torrance, California

13. Implanting Physician(s):

Dr. Alan Kaneshiro MD

14. Counts in the Master Complaint brought by Plaintiff(s):

- ☒ Count I: Strict Products Liability – Failure to Warn
- ☒ Count II: Strict Products Liability – Design Defect
- ☒ Count III: Negligence
- ☒ Count IV: Negligence *Per Se*

- X Count V: Breach of Express Warranty
- X Count VI: Breach of Implied Warranty
- X Count VII: Violations of Applicable Mississippi
Law Prohibiting Consumer Fraud and Unfair and Deceptive Trade
Practices
- Count VIII: Loss of Consortium
- ☐ Count IX: Wrongful Death
- X Count X: Survival
- X Count XI: Punitive Damages
- X Other: _____(please state the facts supporting
this Count in the space, immediately below)
- ☐ Other: _____(please state the facts supporting
this Count in the space, immediately below)

Defendants Expressly and Impliedly warranted that the Cook IVC Filter was a
permanent lifetime implant and downplayed the risks associated with
migration, perforation, tilt, fracture, and other risk relied upon by the
Plaintiff to his detriment.

15. Attorney for Plaintiff(s):

Monte Bond

16. Address and bar information for Attorney for Plaintiff(s):

5151 Belt Line Rd., Suite 1000, Dallas, TX 75254

Monte Bond - TX Bar No.: 02585625

Respectfully submitted,

Tautfest Bond, PLLC

s/ Monte Bond

Monte Bond No. 02585625

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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2022, a copy of the foregoing was served electronically and notice of the service of this document will be sent to all parties by operation of the Court's electronic filing system to CM/ECF participants registered to receive service in this matter. Parties may access this filing through the Court's system. A copy of the foregoing was also served via U.S. Mail to the following non-CM/ECF participants

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